

**10 CSR 10-6.364 Clean Air Interstate Rule Seasonal NO<sub>x</sub> Trading Program**

(1) Applicability.

(A) Except as provided in subsection (1)(B) of this rule—

1. The following units in this state shall be Clean Air Interstate Rule (CAIR) nitrogen oxides (NO<sub>x</sub>) Ozone Season units, and any source that includes one or more such units shall be a CAIR NO<sub>x</sub> Ozone Season source, subject to the requirements of this rule: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatts electric (MWe) producing electricity for sale; and

2. If a stationary boiler or stationary combustion turbine that, under paragraph (1)(A)1. of this rule, is not a CAIR NO<sub>x</sub> Ozone Season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) MWe producing electricity for sale, the unit shall become a CAIR NO<sub>x</sub> Ozone Season unit as provided in paragraph (1)(A)1. of this rule on the first date on which it both combusts fossil fuel and serves such generator; or

3. Units in Bollinger, Butler, Cape Girardeau, Carter, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Lewis, Lincoln, Madison, Marion, Mississippi, Montgomery, New Madrid, Oregon, Pemiscot, Perry, Pike, Ralls, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Scott, Shannon, Stoddard, Warren, Washington and Wayne counties and the City of St. Louis which are not CAIR NO<sub>x</sub> Ozone Season units under paragraphs (1)(A)1., (1)(A)2. and (1)(B) shall be Clean Air Interstate Rule (CAIR) nitrogen oxides (NO<sub>x</sub>) Ozone Season units, and any source that includes one (1) or more such units shall be a CAIR NO<sub>x</sub> Ozone Season source if—

A. Electric generating units that serve a generator with a nameplate capacity greater than twenty-five megawatts (25 MW) and—

(I) For non-cogeneration units—

(a) Commenced operation before January 1, 1997, and served a generator producing electricity for sale under a firm contract to the electric grid during 1995 or 1996; or

(b) Commenced operation in 1997 or 1998 and served a generator producing electricity for sale under a firm contract to the electric grid during 1997 or 1998; or

(c) Commenced operation on or after January 1, 1999, and served or serves at any time a generator producing electricity for sale; and

(II) For cogeneration units—

(a) Commenced operation before January 1, 1997, and failed to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for 1995 or 1996 under the Acid Rain Program; or

(b) Commenced operation in 1997 or 1998 and failed to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for 1997 or 1998 under the Acid Rain Program; or

(c) Commenced operation on or after January 1, 1999, and failed or fails to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for any year under the Acid Rain Program; and

B. Non-electric generating boilers, combined cycle systems, and combustion turbines that have a maximum design heat input greater than two hundred fifty (250) million British thermal units per hour (mmBtu/hr) and—

(I) For non-cogeneration units—

(a) Commenced operations before January 1, 1997, and did not serve a generator producing electricity for sale under a firm contract to the electric grid during 1995 or 1996; or

(b) Commenced operations in 1997 or 1998 and did not serve a generator producing electricity for sale under a firm contract to the electric grid during 1997 or 1998; or

(c) Commenced operation on or after January 1, 1999, and:

I. At no time served or serves a generator producing electricity for sale; or

II. At any time served or serves a generator with a nameplate capacity of twenty-five (25) MW or less producing electricity for sale, and with the potential to use no more than fifty percent (50%) of the potential electrical output capacity of the unit; and

(II) For cogeneration units-

(a) Commenced operation before January 1, 1997, and qualified as an unaffected unit under 40 CFR 72.6(b) (4) for 1995 or 1996 under the Acid Rain Program; or

(b) Commenced operation in 1997 or 1998 and qualified as an unaffected unit under 40 CFR 72.6(b) (4) for 1997 or 1998 under the Acid Rain Program; or

(c) Commenced operation on or after January 1, 1999, and qualified or qualifies as an unaffected unit under 40 CFR 72.6(b) (4) for each year under the Acid Rain Program.

(III) Exemptions. The director shall provide the administrator written notice of the issuance of any permit under section (3) of this rule and, upon request, a copy of the permit. Notwithstanding paragraph (1) (A)3. of this rule, a unit shall not be a CAIR NO<sub>x</sub> Ozone Season unit if the unit has a federally enforceable permit that:

(a) Restricts the unit to burning only natural gas or fuel oil;

(b) Restricts the unit's operating hours to the number calculated by dividing twenty-five (25) tons of potential mass emissions by the unit's maximum potential hourly NO<sub>x</sub> mass emissions;

(c) Requires that the unit's maximum potential NO<sub>x</sub> mass emissions be calculated by multiplying the unit's maximum rated hourly heat input by the highest default NO<sub>x</sub>

emission rate applicable to the unit under 40 CFR 75.19(c), Table LM-2;

(d) Requires that the owner or operator of the unit shall retain at the source that includes the unit, for five (5) years, records demonstrating that the operating hours restriction, the fuel use restriction, and the other requirements of the permit related to these restrictions were met; and

(e) Requires that the owner or operator of the unit shall report the unit's hours of operation (treating any partial hour of operation as a whole hour of operation) during each control period to the director by November 1 of each year for which the unit is subject to the federally enforceable permit.

(IV) A CAIR NO<sub>x</sub> Ozone Season unit may not qualify for an exemption unless the emissions after the exemption do not exceed the lesser of twenty-five (25) tons or the amount of allocations allocated to them. The owner or operator of a CAIR NO<sub>x</sub> Ozone Season unit that is allocated CAIR NO<sub>x</sub> Ozone Season allowances under section (3) of this rule, which requests an exemption under part (1)(A)3.B.III. of this rule, will surrender to the administrator the CAIR NO<sub>x</sub> Ozone Season allowances for the control period after qualifying and every year after for which the exemption remains in place.

(V) Loss of exemption. If, for any control period, the unit does not comply with the fuel use restriction under subpart (1)(A)3.B.(III)(a) of this rule or the operating hours restriction subpart (1)(A)3.B.(III)(b) and subpart (1)(A)3.B.(III)(c) of this rule, or the fuel use or the operating hour restrictions are removed from the unit's federally enforceable permit or otherwise becomes no longer applicable, the unit shall be a NO<sub>x</sub> budget unit, subject to the requirements of this rule. Such unit shall be treated as commencing operation and, for a unit under paragraph (1)(A)3. of this rule, commencing commercial operation on September 30 of the control period for which the fuel use restriction or the operating hours restriction is no longer applicable or during which the unit does not comply with the fuel use restriction or the operating hours restriction.

(B) The units in the state that meet the requirements set forth in subparagraph (1)(B)1.A., (1)(B)2.A., or (1)(B)2.B. of this rule shall not be CAIR NO<sub>x</sub> Ozone Season units—

1. Cogenerator exemption.

A. Any unit that is a CAIR Ozone Season NO<sub>x</sub> unit under paragraph (1)(A)1. or 2. of this rule—

(I) Qualifying as a cogeneration unit during the twelve (12)-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(II) Not serving at any time, since the later of November 15, 1990 or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours (MWh), whichever is greater, to any utility power distribution system for sale.

B. If a unit qualifies as a cogeneration unit during the twelve (12)-month period starting on the date the unit first produces electricity and meets the requirements of subparagraph (1)(B)1.A. of this rule for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR Ozone Season NO<sub>x</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of part (1)(B)1.A.(I) of this rule.

2. Solid waste incinerator exemption.

A. Any unit that is a CAIR NO<sub>x</sub> Ozone Season unit under paragraph (1)(A)1. or 2. of this rule commencing operation before January 1, 1985—

(I) Qualifying as a solid waste incineration unit; and

(II) With an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding eighty percent (80%) (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%) (on a Btu basis).

B. Any unit that is a CAIR NO<sub>x</sub> Ozone Season unit under paragraph (1)(A)1. or 2. of this rule commencing operation on or after January 1, 1985—

(I) Qualifying as a solid waste incineration unit; and

(II) With an average annual fuel consumption of non-fossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%) (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%) (on a Btu basis).

C. If a unit qualifies as a solid waste incineration unit and meets the requirements of subparagraph (1)(B)2.A. or B. of this rule for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO<sub>x</sub> Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(C) Retired Unit Exemption. Unless otherwise noted in this section of the rule, all of the sections of 40 CFR 96.305 promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(2) Definitions.

(A) Definitions for key words and phrases used in this rule may be found in sections 40 CFR 96.302 and 96.303 of 40 CFR 96 subpart AAAA promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(B) Definitions for key words and phrases used in paragraph (1)(A)3. of this rule may be found in sections

40 CFR 97.2 subpart A promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(C) Cogenerator—(for the purposes of paragraph (1)(A).3. of this rule) A cogeneration facility which:

1. For a unit that commenced construction on or prior to November 15, 1990, was constructed for the purpose of supplying equal to or less than one-third its potential electrical output capacity or equal to or less than two hundred nineteen thousand (219,000) MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). If the purpose of construction is not known, the administrator will presume that actual operation from 1985 through 1987 is consistent with such purpose. However, if in any three (3) calendar year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand (219,000) MWe-hrs actual electric output (on a gross basis), that unit shall be an affected unit, subject to the requirements of the Acid Rain Program; or

2. For units which commenced construction after November 15, 1990, supplies equal to or less than one-third its potential electrical output capacity or equal to or less than two hundred nineteen thousand (219,000) MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). However, if in any three (3) calendar year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand (219,000) MWe-hrs actual electric output (on a gross basis), that unit shall be an affected unit, subject to the requirements of the Acid Rain Program.

(D) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Unless otherwise noted in this section, 40 CFR 96.306, 96.307, and 96.308 as well as all of the sections of 40 CFR 96 subparts BBBB, CCCC, DDDD, FFFF, GGGG, and IIII promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(B) CAIR NO<sub>x</sub> Ozone Season Allowances.

1. Timing requirements for CAIR NO<sub>x</sub> Ozone Season Allowance allocations.

A. By October 31, 2006, the permitting authority will submit to the administrator the CAIR NO<sub>x</sub> Ozone Season Allowance allocations, in a format prescribed by the administrator, for the control periods in 2009, 2010, 2011, 2012, 2013, and 2014 consistent with the allocations established in Table I and Table II of this subsection.

B. By October 31, 2006, the permitting authority will submit to the administrator the CAIR NO<sub>x</sub> Ozone Season Allowance allocations, in a format prescribed by the administrator, for the control period beginning 2015 and extending through ten (10) control periods consistent with the allocations established in Table I and Table II of this subsection.

C. By October 31, 2015 and October 31 of every tenth year following, the permitting authority will submit to the administrator CAIR NO<sub>x</sub> Ozone Season Allowance allocations, in a format prescribed by the administrator, for the control period ten (10) years in the future and extending through ten (10) control periods consistent with Table I and Table II of this subsection.

2. CAIR NO<sub>x</sub> Ozone Season Allowance allocations.

A. The state trading program NO<sub>x</sub> budget allocated by the director under subparagraphs (3)(B)2.B. and (3)(B)2.C. of this rule for a control period will equal twenty-six thousand seven hundred thirty-seven (26,737) tons for 2009-2014 and twenty-two thousand two hundred ninety (22,290) tons for 2015 and beyond.

B. The following CAIR NO<sub>x</sub> ozone season units shall be allocated NO<sub>x</sub> allowances for each control period in accordance with Table I of subparagraph (3)(B)2.B. of this rule.

**Table I**

<b>Facility ID</b>	<b>Facility Name</b>	<b>Unit ID</b>	<b>Portion Statewide Pool</b>	<b>NO<sub>x</sub> Allocation 2009-2014</b>	<b>NO<sub>x</sub> Allocation 2015 and beyond</b>
2076	ASBURY	1	1.85%	493	410
2079	HAWTHORN STATION	5A	5.51%	1,469	1,224
2079	HAWTHORN STATION	6	0.09%	25	21
2079	HAWTHORN STATION	7	0.05%	13	11
2079	HAWTHORN STATION	8	0.04%	11	9
2079	HAWTHORN STATION	9	0.23%	62	51
2080	MONTROSE STATION	1	1.53%	408	340
2080	MONTROSE STATION	2	1.55%	414	345
2080	MONTROSE STATION	3	1.63%	435	363
2081	NORTHEAST #11		0.01%	2	2
2081	NORTHEAST #12		0.01%	2	1
2081	NORTHEAST #13		0.02%	4	3
2081	NORTHEAST #14		0.01%	3	3
2081	NORTHEAST #15		0.01%	3	2
2081	NORTHEAST #16		0.01%	2	2
2081	NORTHEAST #17		0.01%	4	3
2081	NORTHEAST #18		0.01%	3	3
2082	FAIRGROUNDS		0.01%	2	2
2092	RALPH GREEN		0.03%	8	7
2094	SIBLEY	1	0.52%	138	115
2094	SIBLEY	2	0.50%	135	112
2094	SIBLEY	3	3.31%	884	737
2096	AMEREN VIADUCT		0.00%	—	—
2098	LAKE ROAD	6	0.86%	231	192
2098	LAKE ROAD (GAS TURBINE)	5	0.02%	5	4
2102	HOWARD BEND CT		0.00%	1	1
2103	LABADIE	1	4.57%	1,220	1,017
2103	LABADIE	2	4.84%	1,292	1,076
2103	LABADIE	3	5.19%	1,384	1,153
2103	LABADIE	4	4.81%	1,283	1,069
2104	MERAMEC	1	1.25%	333	278
2104	MERAMEC	2	1.14%	305	254
2104	MERAMEC	3	1.98%	529	441
2104	MERAMEC	4	2.89%	770	641
2104	MERAMEC	GT1		—	—
2107	SIOUX	1	3.68%	981	817
2107	SIOUX	2	3.68%	982	818
2122	CHILLICOTHE		0.01%	2	2
2123	COLUMBIA	6	0.09%	24	20
2123	COLUMBIA	7	0.10%	28	23
2123	COLUMBIA	8	0.00%	1	—

Facility ID	Facility Name	Unit ID	Portion Statewide Pool	NO <sub>x</sub> Allocation 2009-2014	NO <sub>x</sub> Allocation 2015 and beyond
2132	BLUE VALLEY POWER	3	0.31%	84	70
2132	BLUE VALLEY POWER	GT1	0.00%	—	—
2161	JAMES RIVER	GT1	0.05%	13	11
2161	JAMES RIVER	GT2	0.03%	9	7
2161	JAMES RIVER	3	0.48%	129	108
2161	JAMES RIVER	4	0.62%	164	137
2161	JAMES RIVER	5	1.07%	285	238
2167	NEW MADRID POWER PLA	1	4.76%	1,271	1,059
2167	NEW MADRID POWER PLA	2	4.94%	1,318	1,098
2168	THOMAS HILL ENERGY C	MB1	1.90%	506	422
2168	THOMAS HILL ENERGY C	MB2	2.73%	729	608
2168	THOMAS HILL ENERGY C	MB3	6.63%	1,769	1,474
2169	CHAMOIIS POWER PLANT	2	0.52%	138	115
6065	IATAN STATION	1	7.04%	1,877	1,564
6074	GREENWOOD ENERGY CENT	1	0.04%	10	9
6074	GREENWOOD ENERGY CENT	2	0.04%	10	8
6074	GREENWOOD ENERGY CENT	3	0.04%	12	10
6074	GREENWOOD ENERGY CENT	4	0.04%	11	9
6155	RUSH ISLAND	1	5.05%	1,346	1,122
6155	RUSH ISLAND	2	4.58%	1,221	1,018
6195	SOUTHWEST	1	2.28%	609	507
6195	SOUTHWEST	CT1A	0.01%	3	2
6195	SOUTHWEST	CT1B	0.01%	3	2
6195	SOUTHWEST	CT2A	0.01%	2	2
6195	SOUTHWEST	CT2B	0.01%	2	2
6223	EMPIRE	3A	0.01%	2	2
6223	EMPIRE	3B	0.01%	2	2
6223	EMPIRE	4A	0.01%	2	2
6223	EMPIRE	4B	0.01%	2	2
6563	EMPIRE-ENERGY CENTER 1		0.06%	16	13
6563	EMPIRE-ENERGY CENTER 2		0.04%	9	8
6650	MEXICO		0.00%	1	1
6651	MOBERLY		0.00%	1	1
6652	MOREAU		0.01%	2	1
6768	SIKESTON	1	2.62%	698	582
7296	STATE LINE UNIT 1	1	0.17%	46	38
7296	STATE LINE UNIT 1	2-1	0.32%	85	71
7296	STATE LINE UNIT 1	2-2	0.37%	98	82
7604	ST. FRANCIS POWER PL	1	0.21%	55	46
7604	ST. FRANCIS POWER PL	2	0.18%	49	41
7749	ESSEX POWER PLANT	1	0.03%	9	8
7754	NODAWAY POWER PLANT	1	0.04%	10	8
7754	NODAWAY POWER PLANT	2	0.03%	9	7
7848	HOLDEN POWER PLANT	1	0.01%	2	2
7848	HOLDEN POWER PLANT	2	0.01%	3	3
7848	HOLDEN POWER PLANT	3	0.01%	3	2
7903	MCCARTNEY	MGS1A	0.00%	1	1
7903	MCCARTNEY	MGS1B	0.00%	1	1
7903	MCCARTNEY	MGS2A	0.00%	1	1
7903	MCCARTNEY	MGS2B	0.00%	1	1

Facility ID	Facility Name	Unit ID	Portion Statewide Pool	NO <sub>x</sub> Allocation 2009-2014	NO <sub>x</sub> Allocation 2015 and beyond
7964	PENO CREEK ENERGY CTR	CT1A	0.01%	2	1
7964	PENO CREEK ENERGY CTR	CT1B	0.01%	1	1
7964	PENO CREEK ENERGY CTR	CT2A	0.01%	2	1
7964	PENO CREEK ENERGY CTR	CT2B	0.01%	2	1
7964	PENO CREEK ENERGY CTR	CT3A	0.01%	1	1
7964	PENO CREEK ENERGY CTR	CT3B	0.01%	1	1
7964	PENO CREEK ENERGY CTR	CT4A	0.01%	1	1
7964	PENO CREEK ENERGY CTR	CT4B	0.00%	1	1
8567	HIGGINSVILLE		0.01%	3	3
55178	MEP PLEASANT HILL	CT-1	0.28%	75	63
55178	MEP PLEASANT HILL	CT-2	0.25%	67	56
55234	AUDRAIN GENERATING	CT1	0.00%	1	—
55234	AUDRAIN GENERATING	CT2	0.00%	—	—
55234	AUDRAIN GENERATING	CT3	0.00%	—	—
55234	AUDRAIN GENERATING	CT4	0.00%	—	—
55234	AUDRAIN GENERATING	CT5	0.00%	—	—
55234	AUDRAIN GENERATING C	CT6	0.00%	—	—
55234	AUDRAIN GENERATING	CT7	0.00%	—	—
55234	AUDRAIN GENERATING	CT8	0.00%	—	—
55447	COLUMBIA ENERGY CTR	CT01	0.00%	1	1
55447	COLUMBIA ENERGY CTR	CT02	0.00%	—	—
55447	COLUMBIA ENERGY CTR	CT03	0.00%	—	—
55447	COLUMBIA ENERGY CTR	CT04	0.00%	—	—
	TOTAL		100.00%	26,678	22,231

C. The following existing non-electric generating unit (EGU) boilers shall be allocated NO<sub>x</sub> allowances for each control period in accordance with Table II of subparagraph (3)(E)2.C of this rule.

**Table II**

Non-EGUs Boilers	Unit	NO <sub>x</sub> Allocation per Unit Tons Per Ozone Season
Anheuser Busch	6	14
Trigen Ashley Street Station Boiler	5	9
Trigen Ashley Street Station Boiler	6	36

D. Any unit subject to subsection (1)(B) of this rule, other than those listed in Tables I and II of this subsection, will not be allocated CAIR NO<sub>x</sub> Ozone Season Allowances under this rule.

(4) Reporting and Record Keeping. Unless otherwise noted in this section, all of the sections of 40 CFR 96 subpart HHHH promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the

Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(5) Test Methods. (*Not Applicable*)

EPA Rulemakings

CFR: 40 C.F.R. 52.1320(c)

FRM: 72 FR 71073 (12/14/2007)

PRM: 72 FR 52828 (09/17/2007)

State Submission: 05/18/2007

State Final: 10 C.S.R. 10-6 (04/30/2007; effective 05/30/2007)

APDB File: MO-249; EPA-R07-OAR-2007-0782

Description: This new rule adopts the EPA regional trading program for nitrogen oxides, which was developed to meet the requirements of the Clean Air Interstate Rule. The Clean Air Interstate Rule was published on May 12, 2005.

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Difference Between the State and EPA-Approved Regulation

None.